IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 35085 of 2007(B)

PETITIONER:

BEENA DHAVAN, H.S.A. (ENGLISH),
S.N.M.HIGHER SECONDARY SCHOOL,
PURAKKAD P.O., ALAPPUZHA DISTRICT.

BY ADV. SMT.SREEDEVI KYLASANATH
SRI.K.JITHIN
SRI.SUDHAKARA MENON

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY, EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. DISTRICT EDUCATION OFFICER, ALAPPUZHA.

3. MANAGER, S.N.M.HIGHER SECONDARY SCHOOL, PURAKKAD.

4. SUJITH, HSA, S.N.M.HIGHER SECONDARY SCHOOL, PURAKKAD.

5. T.R.RAVILAL, HSA, ENGLISH, S.N.M.HIGHER SECONDARY SCHOOL, PURAKKAD.

6. R.SREEREKHA, HSA, ENGLISH, S.N.M.HIGHER SECONDARY SCHOOL, PURAKKAD.

BY GOVERNMENT PLEADER, A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C) No. 35085 of 2007(B)

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Dated this the 14th day of December, 2007

JUDGMENT

The petitioner approached this Court complaining that even though by Ext.P10 order, the Government directed the District Educational Officer to approve the petitioner's appointment, the District Educational Officer is not approving the same. In the above circumstances, the petitioner seeks the following reliefs:

"i) To issue a writ of mandamus or any other writ or order directing the 2nd respondent to enforce the finding of this Hon'ble Court in P-9 judgment and comply the direction in Exhibit P-10 to approve petitioner's appointment as HSA (English) in S.N.M. Higher Secondary School w.e.f. 23.9.2002.

ii) To issue a writ of mandamus or any other writ or order declaring petitioner's approval as HSA (English) from the date in which the 19th additional class division actually functioned in the light of P-9 judgment and P-10 Government order.

iii) To issue a writ of mandamus or any other writ or order directing 2nd respondent to disburse the arrears of salary w.e.f. 23.9.2002.

iv) To issue any other writ or order as is deemed fit by this Hon'ble Court in the interest of justice."

2. In Ext.P10 the directions of the Government is as follows:

> "In the above circumstances, the District Educational Officer, Alappupzha will revise the staff fixation order for the year 2002-03 and allow the additional divisions if admissible under G.O.(P). 169/04/G.Edn. Dated 15/6/2004 read with Circular No.65111/J2/2004/G.Edn Dated 21..12..2004. If it is found admissible, he will take action to approve the appointment Smt.Beena Dhavan as H.S.A.(English) with effect from 23/9/02 and paid salary; provided the additional divisions has actually functioned and the teacher has worked. He will also take action to approve the appointment of Sri.Subhash.K. B. as Peon with effect from 7/6/2002; if otherwise he is eligible as per rules and salary will be paid for the period he was actually worked."

3. The learned Government Pleader deriving support from the counter affidavit filed, submits that there was no vacancy in the school in the year 2002-2003 and therefore, the petitioner's appointment with effect from 23.9.02 cannot be approved. However, he submits that for the year 2003-04, there was a vacancy to which the petitioner could have been accommodated and if the manager forwards appropriate proposals for such appointment, the same would be considered and appropriate orders passed.

4. In the above circumstances, I direct the 3rd respondent to forward an appointment order of the petitioner in the 19th vacancy in the school which has been sanctioned for the

year 2003-04, within two weeks from the date of receipt of a copy of this judgment. On such receipt the 2nd respondent shall take appropriate steps to consider the same, in accordance with law, within another one month thereafter.

The writ petition is disposed of as above.

S.SIRI JAGAN,
JUDGE

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